



W.P(MD)No.16609 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P(MD)No.16609 of 2023

and

W.M.P(MD)Nos.13890 & 13891 of 2023

D.John Alfred

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Housing and Urban Development Department,
Secretariat,
Chennai – 9.
- 2.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai – 9.
- 3.The Director,
Department of Town and Country Planning,
Annasalai,
Chennai.
- 4.The Nagercoil Local Planning Authority,
Rep. by its Member Secretary (District Collector),



W.P(MD)No.16609 of 2023

Collectorate,
Nagercoil,
Kanyakumari District.

5.The Nagercoil Corporation,
Rep. by its Commissioner,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings vide letter No. 3926/UD4 (L.Re-2)/2020-2, dated 25.01.2023 and vide letter No.171/ UD4 (L.Re-2)/ 2020-1, dated 25.05.2023 of the second respondent herein and quash the same.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.VR.Shanmuganathan

For Respondents : Mr.A.Baskar
Additional Government Pleader
for R.1 to R.4

Mr.F.Deepak
Standing Counsel for R.5

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.



W.P(MD)No.16609 of 2023

WEB COPY 2.The petitioner had admittedly put up an unauthorised construction. Hence, the Local Planning Authority passed lock and seal order against the said building on 11.03.2020. Challenging the same, the petitioner filed an appeal under Section 80(A) before the Government. The said appeal was dismissed vide order dated 25.01.2023. Seeking reconsideration of the said order dated 25.01.2023, the petitioner filed review application. That was also dismissed on 25.05.2023. Challenging these two rejection orders, this writ petition came to be filed.

3.The building in question at present comprises 9 floors. The petitioner had applied to the local body way back in the year 1996 for putting up a building comprising basement and the ground floor. After completing the construction, the petitioner moved the local body for putting up one more floor. That was also permitted. Even though, the petitioner had obtained permission only for putting up basement, ground floor and first floor, he went beyond and put up few more floors. This came under the adverse notice of the local body, which instituted O.S.No. 12 of 2002 on the file of Additional District Munsif Court, Nagercoil



W.P(MD)No.16609 of 2023

seeking mandatory injunction for removal of the entire building.

According to the local body, the building had been constructed on a water body. The petitioner filed a counter suit in O.S.No.54 of 2002 before the very same Court seeking suitable reliefs against the local body, including a declaratory relief that the construction put up by him was lawful. Both the suits were tried together. The suit filed by the local body was dismissed while the suit filed by the petitioner was decreed on 11.04.2008.

4.The decree passed by the trial Court was put to challenge by the local body by filing first appeal. Since the first appeal was not filed within time, the first appellate Court dismissed the appeal at the condone delay stage itself on 03.03.2010. Questioning the same, the local body filed CRP(MD)SR No.16949 & 16955 of 2014. The said CRPs were also dismissed at the condone delay stage on 12.07.2018. Thus, the decree passed in favour of the petitioner had attained finality.

5.Emboldened by the fact that the additional constructions put up by him had secured the imprimatur of the civil Court, the petitioner went on to put up further floors. Ultimately, the building became a nine-



W.P(MD)No.16609 of 2023

storied structure. Since this furnished a new cause of action, the local body rightly intervened in the matter and that is how the case is before us.

6.During the intervening period, the revised plan was also cancelled and the entire building came to be locked and sealed. We are informed by the learned Senior Counsel appearing for the writ petitioner that for the last 13 years the building has not been put to any kind of use.

7.Considering the decree standing in favour of the writ petitioner, we felt that if the deviations committed by the petitioner could be rectified, the situation could be salvaged to some extent. We therefore called upon the respondents to conduct a field inspection and issue a series of instructions for strict compliance by the petitioner. Pursuant to the Court's order, the Assistant Director, District Town Planning, Kanyakumari and the Corporation officials conducted field inspection and submitted a report before this Court. The report contains a set of measures to be taken by the petitioner herein so that the building in question will conform to the parameters set out in the relevant planning laws.



W.P(MD)No.16609 of 2023

8.The petitioner has also filed an affidavit of undertaking. Most importantly, the petitioner has agreed to completely remove the illegally put up floors so that the building will come under the category of non-high-rise building. We specifically direct that the petitioner will have to necessarily demolish and remove those additional constructions that are not covered by the civil Court's decree dated 11.04.2008 in O.S.No.12 of 2002 and O.S.No.54 of 2002. The petitioner shall adhere to the undertaking given by him in the affidavit filed before us today.

9.After the instructions set out in the report dated 16.02.2026 are complied with, the Commissioner, Nagercoil City Municipal Corporation shall once again conduct inspection and certify if the instructions set out in the earlier report had been complied with or not. Upon issuance of such certificate by the Commissioner of the corporation, the petitioner can utilise the building in question.

10.The impugned orders are set aside. The headroom put up by the petitioner, which are not habitable, need not be demolished. As regards the usage of the adjacent vacant land belonging to the petitioner as car parking area, we direct that the petitioner shall maintain the same as such for all times to come.



W.P(MD)No.16609 of 2023

11.This Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [R.K.M, J.]
18.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai – 9.
- 2.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai – 9.
- 3.The Director,
Department of Town and Country Planning,
Annasalai,
Chennai.
- 4.The Member Secretary (District Collector),
Nagercoil Local Planning Authority,
Collectorate,
Nagercoil,
Kanyakumari District.
- 5.The Commissioner,
Nagercoil Corporation,
Nagercoil,
Kanyakumari District.



WEB COPY



W.P(MD)No.16609 of 2023

G.R.SWAMINATHAN,J.

AND

R.KALAIMATHI, J.

MGA

W.P(MD)No.16609 of 2023

18.02.2026